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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,526	12/13/2001	R. Dennis Nesbitt	P-5512	4775
24492	7590	07/19/2004	EXAMINER	
THE TOP-FLITE GOLF COMPANY, A WHOLLY OWNED SUBSIDIARY OF CALLAWAY GOLF COMPANY P.O. BOX 901 425 MEADOW STREET CHICOPEE, MA 01021-0901			GORDON, RAEANN	
		ART UNIT	PAPER NUMBER	
		3711		
DATE MAILED: 07/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

4W

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/015,526	NESBITT, R. DENNIS	
	Examiner Raeann Gorden	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 06 April 2004.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-5 and 7-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5 and 7-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

<input type="checkbox"/> Notice of References Cited (PTO-892)	<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	<input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 and 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear where the cover is claimed; see claims 1, 5, and 10.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al (5,984,806). Regarding claim 11, Sullivan discloses a golf ball comprising a core, an inner cover layer and an outer cover layer. The inner cover layer is equivalent to applicant's outer core layer. The inner cover layer includes a high-density region extending around the longitudinal axis of the core perpendicular to the ball's spin axis. (figs 8). Regarding claims 12 and 13, the filler may be any type with a high specific gravity, such as tungsten, which has a specific gravity of 19.35 (see col. 25).

Regarding claim 14, the high-density regions comprise a continuous or discontinuous band of high-density regions (4 and 8). Regarding claim 15, Sullivan discloses a band comprising two or more equally segmented parts as shown in the section of the golf ball in applicant's figure 10. Figure 8 of Sullivan displays a golf ball with two high-density bands that intersect in two locations. A section view of the golf ball would create a band comprising four equally segmented high-density regions identical to applicant's figure 10. Regarding claim 16, Sullivan discloses a golf ball comprising a core, an inner cover layer and an outer cover layer. The inner cover layer is equivalent to applicant's outer core layer. Regarding claims 17 and 18, the high-density band is continuous metal band (fig 8). Col. 25 discloses metals such as aluminum (sp. 2.7) and nickel (sp. 8.9) used in the high-density region. Regarding claim 19, Sullivan discloses a golf ball comprising a core, an inner cover layer and an outer cover layer. The inner cover layer is equivalent to applicant's outer core layer. The inner cover layer includes a high-density region (figs 3 and 3B). As shown in the figures the high-density regions are located at the center of the golf ball, which is equivalent to applicant's location centered about the spin axis. Compare apps figure 3 and Sullivan's figure 3. Regarding claim 20, the golf ball includes an outer cover layer. Although Sullivan does not disclose the horizontal spin axis of the ball the placement of the high density regions appears to be the same as applicant's. One of ordinary skill in the art would have varied the placement of the high density regions to achieve the desired spin characteristics.

***Terminal Disclaimer***

The terminal disclaimer filed on 5-18-04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6,261,193 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Response to Arguments***

The prior art rejections over claims 1-5 and 6-10 are withdrawn, however, in view of the currently amended claims a 35 USC 112, second paragraph rejection is set forth above. With respect to claims 11-20 applicant's arguments are not persuasive. Applicant argues the present invention claims a hollow channel comprising at least one high density region disposed within the channel. However, applicant's position is not fully understood. Sullivan clearly discloses a band (channel) comprising a high density region. It appears as if applicant is referring to intermediate method steps and not the final product. Contrary to applicant's arguments the molding process of Sullivan is not relevant to the final golf ball.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

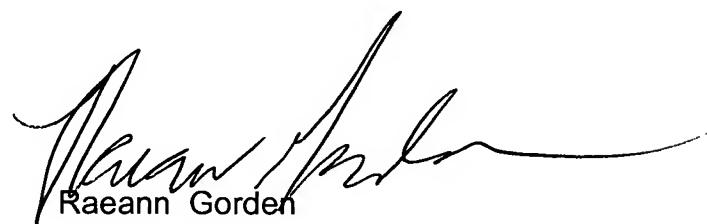
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 703-308-8354. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Raeann Gorden  
Primary Examiner  
Art Unit 3711

rg  
July 15, 2004